IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 307 OF 1998

The Commissioner of Income-tax. ... Applicant.
V/s.
M/s.Bajaj Auto Ltd., Bombay. ... Respondent.

A.S.Rao for the Applicant.

P.Vaidya with Ms.Vasanti Patel for respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 29th March, 2005.

P.C. :

. Heard learned counsel for the applicant.

The tribunal has referred following questions for

the opinion of this Court:

> "1. Whether the Tribunal was justified in directing the ITO to consider the benefits or amenities provided to the Managing Director u/s 40(c) and not u/s 40A(5) of the I.T.Act?
>
> 2. Whether the Tribunal was justified in law in directing the ITO that salary paid to employees for the period of working outside India should not be included for the purpose of disallowance u/s 40A(5)?
>
> 3. Whether on the fa circumstances of the case, the Tribunal was justified in law in directing the ITO to allow assessee's claim relating to weighted deduction u/s 35B in respect of interest on packing credit?

2. The first question has already been answered

by the Division Bench of this Court in the case of **C.I.T. v. Hico Products Ltd.**, (1993) 201 ITR 567

(Bom) in favour of assessee and against the revenue.

3. The second question has already been answered by the Apex Court in the case of **C.I.T. v. continental Construction Ltd.**, (1998) 230 ITR 485 (SC) in favour of assessee and against the revenue.

4. The third question has already been answered by the Division Bench of this Court in the case of **Rajnikant Bros. v. C.I.T.**, (1996) 217 ITR 272 (Bom) and in **C.I.T. v. Jaipur Metal & Electricals Ltd.**, (1995) 215 ITR 413 (Bom) against the assessee and in favour of the revenue.

5. In this view of the matter, question Nos.1 and 2 are answered in affirmative and question No.3 is answered in negative for the reasons stated in the above referred judgments.

6. Reference stands disposed of accordingly with no order as to costs.

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